

Remarks

Claims 1-52 were pending in the application. Claims 1-3 and 9-52 were rejected for reasons discussed below. Claims 4-8 were objected to as being dependent on rejected claims, but were considered to be allowable if rewritten in independent form. In order to expedite prosecution of the application claims 1-3 and 9-52 have been canceled without prejudice or disclaimer to the subject matter contained therein. Claim 4 has been rewritten in independent form. Claims 53-89 have been added. Claims 4, 53 and 74 are the independent claims.

The Examiner objected to claim 8 for an informality. The claim has been amended to correct the informality. Accordingly, the Applicant submits that the objection should be withdrawn.

The Examiner considered the subject matter of claims 4-8 to be allowable but objected to the claims as being dependent upon a rejected base claim. Claim 4 has been rewritten in independent form and claim 5-8 depend either directly or indirectly from claim 4. The Applicant submits that the objection has been overcome and that the objection should accordingly be withdrawn and the claims allowed.

The Examiner rejected claims 1-3 and 9-52 under 35 USC 103(a) as being unpatentable over *Zigmond et al. (US Patent 6,698,020)* in view of *Doherty (US Publication 2003/0200128A1)*. The pending claims were canceled without prejudice or disclaimer to the subject matter contained therein. It is submitted that the new claims are patentable over the cited references for at least the following reasons.

Independent claim 53 is directed to a system capable of updating a list of targeted advertisements to be presented to a subscriber based on viewing parameters associated with the subscriber. The system includes a watchdog module for monitoring viewing

Amendment

-11-

(09/742,852)

parameters and detecting changes in the viewing parameters. The changes include at least some subset of channel, viewer, program type, and avail size. An ad scheduler generates a list of advertisements to be targeted to a subscriber. The list indicates an order in which the advertisements are to be presented. The ad scheduler is capable of reordering the list responsive to said watchdog module.

It is submitted that none of the cited references disclose, teach or suggest the embodiment recited in claim 53. For example, none of the references disclose, teach or suggest an ad scheduler that defines an order list for advertisement presentation but that can modify the ordered list based on changes in viewing parameters detected by a watchdog module.

In fact on page 3 of the Office Action the Examiner acknowledges that *Zigmond et al.* do not disclose an ordered list of advertisements. The Examiner relies on *Doherty* for disclosing an ordered list and modification thereof. However, even assuming that there was motivation to combine the references (without conceding or acknowledging such), the Applicant submits that the embodiment of claim 53 would not be obtained. That is, Applicant submits that there is clearly no disclosure or suggestion in *Doherty* of modifying an ordered list based on changes in viewing parameters. Rather *Doherty* discloses interrupting the schedule when a user interacts with the system and returning to the schedule when the interaction is complete. This action is the opposite of the embodiment recited in claim 53, where the schedule may be modified based on changes in viewing parameters that would be generated by a subscriber interacting with the system (e.g., changing channels, switching viewers).

The Applicant respectfully submits that the claim 53 is patentable over the cited references. Claims 54-73 depend from claim 53 and are therefore submitted to be patentable over the cited references for at least the same reasons and for the further features recited therein.

Independent claim 74 is submitted to be patentable over the cited references for at least similar reasons to those discussed with respect to claim 53. Claims 75-89 depend from claim 74 and are therefore submitted to be patentable over the cited references for at

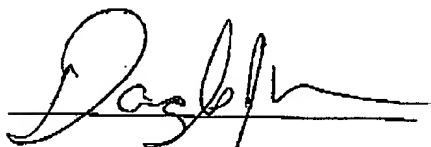
last the reasons discussed with respect to the independent claims and for the further features recited therein.

Conclusion

For the foregoing reasons, Applicant respectfully submits that claims 4-8 and 53-89 are in condition for allowance. Accordingly, early allowance of claims 4-8 and 53-89 is earnestly solicited.

If the Examiner believes that a conference would be of value in expediting the prosecution of this Application, the Examiner is hereby invited to contact the undersigned attorney to set up such a conference.

Respectfully submitted,



Date: 6/29/04

Douglas J. Ryder, Esquire
Reg. No. 43,073

6206 Kellers Church Road
Pipersville, PA 18947
Phone: (215) 766-2100
Fax: (215) 766-2920
dryder@techpats.com